IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: **CHARI**

Application No: **09/671,995**

Group Art Unit: **1642**

Filed: **September 29, 2000**

Examiner: **Karen A. Canella, Ph.D.**

For: **Composition and Methods for Treating Cancer Using Immunoconjugates and Chemotherapeutic Agents**

Attorney Docket No: **104322.198 US1**

Commissioner of Patents
PO Box 1450
Alexandria, VA 22313-1450

Declaration under 37 C.F.R. § 1.132

I, Walter A. Blättler, Ph.D., declare the following:

1. I earned a Ph.D. in chemistry from the Swiss Federal Institute of Technology in Zurich, Switzerland.

2. I am the Executive Vice President of Science and Technology at ImmunoGen, Inc.

3. I have read and understood U.S. Application No. 09/671,995 (the above application), the pending claims and the Office Action dated February 5, 2004.

4. I understand that the pending claims in the above application are directed, *inter alia*, to combinations of chemotherapeutic agents and immunoconjugates, where the immunoconjugates comprise a maytansinoid and a monoclonal antibody or fragment thereof that binds to an antigen expressed by a cancer cell.

5. One skilled in the art would recognize that the results shown in Examples 2-7 of the above application demonstrate that the combination of the claimed chemotherapeutic agent and the claimed immunoconjugate produce greater than additive results when compared to the use of the chemotherapeutic agent alone and the immunoconjugate alone.

6. Examples 2-7 in the above application show the use of immunoconjugates comprising a maytansinoid and either huN901 or huC242.

7. In view of the results shown in Examples 2-7 in the above application in conjunction with the teachings in the above application, it is my opinion that one skilled in the art would have expected that huN901 and huC242 in Examples 2-7 could have been substituted with other monoclonal antibodies that bind antigens expressed by cancer cells and that the same or substantially the same greater than additive results would have been achieved.

8. Examples 2-7 in the above application use one or more of paclitaxel, cisplatin, etoposide, docetaxel, topotecan, and irinotecan as the chemotherapeutic agents.

9. In view of the results shown in Examples 2-7 in the above application in conjunction with the teachings in the above application, it is my opinion that one skilled in the art would have expected that one or more of paclitaxel, cisplatin, etoposide, docetaxel, topotecan, and irinotecan in Examples 2-7 could have been substituted with other chemotherapeutic agents and that the same or substantially the same greater than additive results would have been achieved.

10. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements so made are punishable by fine or imprisonment or both under § 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity or enforceability of the present application or any patent issued thereon.

W. Blättler

Walter Blättler, Ph.D.

May 4, 2004

Date